

EXHIBIT A

FREEDOM COURT REPORTING

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<p>1 UNITED STATES DISTRICT COURT</p> <p>2 MIDDLE DISTRICT OF ALABAMA</p> <p>3 SOUTHERN DIVISION</p> <p>4</p> <p>5 CASE NO. 1:06-CV-0034MEF</p> <p>6 KAREN LURIE,</p> <p>7</p> <p>8 Plaintiff(s),</p> <p>9 v.</p> <p>10 GLOBE LIFE and ACCIDENT INSURANCE</p> <p>11 COMPANY, et al.,</p> <p>12 Defendant(s).</p> <p>13</p> <p>14 DEPOSITION TESTIMONY OF:</p> <p>15 WILLIAM MATTHEWS</p> <p>16</p> <p>17 Commissioner:</p> <p>18 Renny D. McNaughton</p> <p>19 December 21, 2006</p> <p>20 Ozark, Alabama</p> <p>21</p> <p>22</p> <p>23</p>	<p>1 the time of trial or at the time said</p> <p>2 deposition is offered in evidence, or prior</p> <p>3 thereto.</p> <p>4 In accordance with Rule 5(d) of the</p> <p>5 Alabama Rules of Civil Procedure, as</p> <p>6 amended, effective May 15, 1988, I Renny D.</p> <p>7 McNaughton, am hereby delivering to Robert</p> <p>8 Poundstone the original transcript of the</p> <p>9 oral testimony taken the 21st day of</p> <p>10 December, 2006, along with exhibits.</p> <p>11 Please be advised that this is the</p> <p>12 same and not retained by the Court Reporter,</p> <p>13 nor filed with the Court.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>
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<p>1 S T I P U L A T I O N</p> <p>2 IT IS STIPULATED AND AGREED by and</p> <p>3 between the parties through their respective</p> <p>4 counsel that the deposition of William</p> <p>5 Matthews, may be taken before Renny D.</p> <p>6 McNaughton, Court Reporter and Notary</p> <p>7 Public, State at Large, at the offices of</p> <p>8 William Matthews, Ozark, Alabama, on the</p> <p>9 21st day of December, 2006, commencing at</p> <p>10 approximately 10:00 a.m.</p> <p>11 IT IS FURTHER STIPULATED AND AGREED</p> <p>12 that the signature to and the reading of the</p> <p>13 deposition by the witness is waived, the</p> <p>14 deposition to have the same force and effect</p> <p>15 as if full compliance had been had with all</p> <p>16 laws and rules of Court relating to the</p> <p>17 taking of depositions.</p> <p>18 IT IS FURTHER STIPULATED AND AGREED</p> <p>19 that it shall not be necessary for any</p> <p>20 objections to be made by counsel to any</p> <p>21 questions, except as to form or leading</p> <p>22 question and that counsel for the parties</p> <p>23 may make objections and assign grounds at</p>	<p>1 I N D E X</p> <p>2 EXAMINATION BY: PAGE NO.</p> <p>3 Mr. Poundstone 6</p> <p>4</p> <p>5 E X H I B I T S</p> <p>6 Defendant's</p> <p>7 No. 1...Notice of Deposition 9</p> <p>8 No. 2...Subpoena of Records 9</p> <p>9 No. 3...1/02/04 Letter 42</p> <p>10 No. 4...1/26/04 Letter 44</p> <p>11 No. 5...2/03/04 Letter 46</p> <p>12 No. 6...3/02/04 Letter 49</p> <p>13 No. 7...4/26/04 Letter 50</p> <p>14 No. 8...5/18/04 Letter 37</p> <p>15 No. 9...Faxed Policy 58</p> <p>16 No. 10...Affidavit 66</p> <p>17 No. 11...Phone Records 11</p> <p>18 No. 12 A..Phone Records 9</p> <p>19 No. 12 B..10/17/06 Letter 70</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>

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<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 FOR THE DEFENDANT (S):</p> <p>4 Robert E. Poundstone, IV</p> <p>5 Bradley Arant Rose & White LLP</p> <p>6 Alabama Center for Commerce, 401 Adams</p> <p>7 Avenue, Suite 780</p> <p>8 Montgomery, Alabama 36104</p> <p>9 334-956-7700</p> <p>10</p> <p>11 FOR THE PLAINTIFF (S):</p> <p>12 Christopher Sanspree</p> <p>13 Beasley, Allen, Crow, Methvin, Portis &</p> <p>14 Miles, P.C.</p> <p>15 218 Commerce Street</p> <p>16 Montgomery, AL 36104</p> <p>17 800-898-2034</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p>	<p style="text-align: right;">Page 7</p> <p>1 A Will, yeah.</p> <p>2 Q And what is your profession?</p> <p>3 A I'm an attorney and a judge,</p> <p>4 also.</p> <p>5 Q And is that -- tell me where</p> <p>6 you're a judge?</p> <p>7 A Midland City, Clayhatchee,</p> <p>8 Newton, and Dothan.</p> <p>9 Q Okay.</p> <p>10 A I was here at Ozark 14 years</p> <p>11 before I moved to Dothan.</p> <p>12 Q Okay. What kind of judge are</p> <p>13 you?</p> <p>14 A Municipal judge, part-time stuff.</p> <p>15 Q And I noticed that you've</p> <p>16 withdrawn as representing Ms. Lurie in this</p> <p>17 case, correct?</p> <p>18 A Yeah.</p> <p>19 Q Okay.</p> <p>20 A Because I'm a witness.</p> <p>21 Q Okay. And do you --</p> <p>22 A It's unethical for me to be a</p> <p>23 witness and be a party in this lawsuit.</p>
<p style="text-align: right;">Page 6</p> <p>1 I, Renny D. McNaughton, a Court</p> <p>2 Reporter of Greenville, Alabama, and a</p> <p>3 Notary Public for the State of Alabama at</p> <p>4 Large, acting as Commissioner, certify that</p> <p>5 on this date, pursuant to the Alabama Rules</p> <p>6 of Civil Procedure, and the foregoing</p> <p>7 stipulation of counsel, there came before me</p> <p>8 at the offices of William Matthews, Ozark,</p> <p>9 Alabama, commencing at approximately 10:00</p> <p>10 a.m. on the 21st day of December, 2006,</p> <p>11 William Matthews, witness in the above</p> <p>12 cause, for oral examination, whereupon the</p> <p>13 following proceedings were had:</p> <p>14</p> <p>15 WILLIAM MATTHEWS,</p> <p>16 being first duly sworn, was examined and</p> <p>17 testified as follows:</p> <p>18 EXAMINATION</p> <p>19 BY MR. POUNDSTONE</p> <p>20 Q Would you please state your full</p> <p>21 name, for the record?</p> <p>22 A William Bush Matthews, Jr.</p> <p>23 Q Do you go by Will?</p>	<p style="text-align: right;">Page 8</p> <p>1 Q Right.</p> <p>2 A Or be an attorney in this</p> <p>3 lawsuit, I think.</p> <p>4 Q And, I assume, by doing that, you</p> <p>5 expect to testify at trial?</p> <p>6 A Yes, sir. If I'm called as a</p> <p>7 witness, yeah.</p> <p>8 Q Now, obviously, this deposition</p> <p>9 today is unusual because you are an attorney</p> <p>10 and you did represent Ms. Lurie. And I</p> <p>11 understand that there may be instances today</p> <p>12 where you want to assert the attorney/client</p> <p>13 privilege. And, certainly, I'm not going to</p> <p>14 force you or try to make you divulge stuff</p> <p>15 that is covered by the attorney/client</p> <p>16 privilege. I will say, just so we get it on</p> <p>17 record, our position will be at trial that</p> <p>18 if you assert the attorney/client privilege</p> <p>19 for something that is asked in this</p> <p>20 deposition, if testimony is offered on that</p> <p>21 subject at trial, we'll certainly object to</p> <p>22 that being entered into evidence and we'll</p> <p>23 probably file a Motion in Limine in the same</p>

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<p style="text-align: right;">Page 9</p> <p>1 regard. So, I just wanted to put that on 2 the record. 3 (Whereupon, Defendant's 4 Exhibit Numbers 1 and 2 were 5 marked and attached to the 6 deposition.) 7 BY MR. POUNDSTONE 8 Q I want to show you what I've 9 marked as Exhibits 1 and 2. Exhibit 1 is a 10 copy of the deposition notice for your 11 deposition today, and Exhibit 2 is a 12 subpoena for documents that we previously 13 served upon you. Have you received both of 14 those documents? 15 A Yes, sir. 16 Q Okay. And have you reviewed the 17 documents that were requested in each one? 18 A Yes. 19 Q Okay. And do you have any 20 documents responsive to those requests? 21 A Actually, I don't. The only -- 22 the only thing in there, and I believe I 23 wrote you a letter and told you so, the only</p>	<p style="text-align: right;">Page 11</p> <p>1 record, I'm not his lawyer, so 2 whatever he says you can have, you 3 can have. 4 (Whereupon, Defendant's 5 Exhibit Numbers 11 and 12A were 6 marked and attached to the 7 deposition.) 8 BY MR. POUNDSTONE 9 Q Okay. Super. I'm going to mark 10 those. I'm going -- actually, I've got my 11 exhibits premarked. I'm going to mark those 12 as 11 and 12 A. 13 A You can just keep them as far as 14 I'm concerned. 15 Q Okay. And, again, 11 and 12A are 16 the phone records of which show calls made 17 to Oklahoma City, correct? 18 A Right. And I assume that's to 19 that company, Globe. 20 Q How long have you known Karen 21 Lurie? 22 A Probably 15 to 20 years, at 23 least.</p>
<p style="text-align: right;">Page 10</p> <p>1 thing that I had after looking through my 2 phone records are two telephone calls. 3 Let's see, one call is on March the 10th, 4 2:15 p.m., to Oklahoma City, Oklahoma, 5 telephone number (405)270-1410 for 5.7 6 minutes. And the other one, the other one 7 was on February the 18th for 11.3 minutes, 8 (405)270-1410. That's the only actual 9 records that I have of phone calls. 10 Q Okay. 11 A Although, I know I probably made 12 15 calls to these people. 13 Q And we'll just do it when we take 14 a break, but if we can just make a copy of 15 that, and I'm going to stick an exhibit 16 sticker on it and just put it as an 17 attachment. 18 A I can give you these two phone 19 bills and they're in there. 20 Q Okay. 21 A Along with thousands of other 22 numbers. 23 MR. SANSPREE: And just for the</p>	<p style="text-align: right;">Page 12</p> <p>1 Q Okay. How did you come to know 2 Ms. Lurie? 3 A I represented her in a custody 4 case involving her daughter, who's now 5 probably 20 or 21 years old. So that would 6 have been about 10 or 15 years ago. She 7 had -- when she got divorced, her husband 8 got custody of the little girl. And I filed 9 a modification to get custody for her, which 10 I was successful over in Henry County. It 11 was a Henry County case. And they appealed 12 the case to the Court of Civil Appeals, and 13 I think they appealed it to the Supreme 14 Court and they lost. And then they came 15 back about a year or two later and filed 16 again and appealed it again and lost again. 17 So I've had extensive dealings with her 18 on that. 19 Q Okay. 20 A Had nothing to do, you know, with 21 this case. 22 Q Okay. Did that proceeding, I 23 take it that was a husband that she was</p>

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<p style="text-align: right;">Page 13</p> <p>1 married to prior to Mr. David Lurie?</p> <p>2 A Right.</p> <p>3 Q Is there any other matters, other</p> <p>4 than the one we're here on today and the</p> <p>5 custody proceeding, that you represented her</p> <p>6 on?</p> <p>7 A No. And I hadn't seen her until</p> <p>8 Chris got killed.</p> <p>9 Q And "Chris," I guess "Chris" and</p> <p>10 David Lurie are the same person?</p> <p>11 A I didn't know his name was David.</p> <p>12 I always called him Chris.</p> <p>13 Q I think the Complaint said David</p> <p>14 Lurie but he goes by Chris?</p> <p>15 A Yeah. I always knew him as</p> <p>16 Chris. Now, I don't know if that's his real</p> <p>17 name or a nickname or whatever, but that's</p> <p>18 what I always called him.</p> <p>19 Q And I assume that you, in</p> <p>20 addition to the custody proceeding, you also</p> <p>21 did work for Ms. Lurie in connection with</p> <p>22 Chris Lurie's death, correct?</p> <p>23 A Yeah. She called me when he got</p>	<p style="text-align: right;">Page 15</p> <p>1 insurance policies on Chris Lurie that you</p> <p>2 did work on or helped Ms. Lurie on</p> <p>3 concerning Chris's death?</p> <p>4 A I think there were, and I think</p> <p>5 those have been paid out.</p> <p>6 Q When was the first time you</p> <p>7 became aware of the Globe policy that's the</p> <p>8 subject of this lawsuit?</p> <p>9 A She came in probably a week or</p> <p>10 two after he got killed, and she was, like,</p> <p>11 trying to get all his affairs in order, that</p> <p>12 type thing. So I would say it was probably</p> <p>13 -- she would know better than me, but I mean</p> <p>14 I would say it was a couple weeks -- within</p> <p>15 a couple weeks after he died.</p> <p>16 Q Okay. And he died on</p> <p>17 January 6th, and I believe her testimony</p> <p>18 indicated that she thought it was around</p> <p>19 January 12th when she came to see you.</p> <p>20 A Whatever she would say would</p> <p>21 probably be accurate.</p> <p>22 Q Okay.</p> <p>23 A If I kept my old appointment</p>
<p style="text-align: right;">Page 14</p> <p>1 killed, and I referred her to a lawyer in</p> <p>2 Dothan, Mark Andrews. And he and I handled</p> <p>3 that case.</p> <p>4 Q When say he and you handled that</p> <p>5 case, what case do you refer to?</p> <p>6 A It was the wrongful death case.</p> <p>7 Q Okay. Against the driver?</p> <p>8 A Against the driver of the car.</p> <p>9 Actually, I think it was a van he was</p> <p>10 driving.</p> <p>11 Q Okay. And I believe the accident</p> <p>12 report does show that.</p> <p>13 A Yeah.</p> <p>14 Q Other than the wrongful death</p> <p>15 case, the custody matter, and the matter</p> <p>16 with the insurance policy with Globe Life,</p> <p>17 are there any other matters in connection --</p> <p>18 well, any other matters that you've</p> <p>19 represented Ms. Lurie on.</p> <p>20 A Not that I can think of. I'm</p> <p>21 sure she's called me about stuff over the</p> <p>22 years, but...</p> <p>23 Q Are there any other life</p>	<p style="text-align: right;">Page 16</p> <p>1 books going back -- it's been several years.</p> <p>2 If I kept my appointment books, I could tell</p> <p>3 you exactly, but I don't think we keep them.</p> <p>4 Q Did she contact you at any time</p> <p>5 concerning that policy prior to the death of</p> <p>6 Chris Lurie?</p> <p>7 A No.</p> <p>8 Q Okay. She didn't call you -- she</p> <p>9 testified that she put it in the mail on</p> <p>10 January 4th. She didn't --</p> <p>11 A She didn't call me about it.</p> <p>12 Q Okay. You didn't talk to her</p> <p>13 about the actual check while she was paying</p> <p>14 it?</p> <p>15 A No. In fact, I hadn't talked to</p> <p>16 her until Chris got killed in probably a</p> <p>17 couple years.</p> <p>18 Q Okay. So, if I understand your</p> <p>19 testimony right, she came to see you after</p> <p>20 his death to talk about a number of issues</p> <p>21 involving the death and not, specifically,</p> <p>22 the Globe policy, is that accurate?</p> <p>23 A Firstly, it was the death case.</p>

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1 And when I talked to her about the death
2 case, I asked her about any insurance
3 policies and that type thing, and I told her
4 I would help her with that, if she needed
5 help.

6 And I don't think she brought in the
7 policy that day, or the policies. It might
8 have been the next day or a couple days, but
9 I told her I needed death certificates to
10 send, you know, to file the claim. And if I
11 sent a letter to the company, y'all would
12 have that. I couldn't find it.

13 **Q Yeah. I do have a letter that I**
14 **will show you in just a little bit.**

15 A Okay.

16 **Q What is the first time you**
17 **remember discussing the Globe policy with**
18 **Ms. Lurie?**

19 A Well, it would have been when she
20 brought in the policies.

21 **Q What, specifically, do you**
22 **remember discussing with her about the**
23 **policy?**

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1 A Well, I think -- how many years
2 ago has this been, three?

3 **Q 2004.**

4 A 2004. She's -- I think she
5 brought in something saying "your policy was
6 going to lapse if you don't send the money
7 in," or something like that. And she told
8 me at that point that she mailed a check to
9 the company. And it was a fairly
10 insignificant amount of money, \$30 or \$40.
11 It wasn't much money.

12 And she said she mailed the check like
13 the day or two before he got killed. And
14 that was one of her questions, would she be
15 covered. And I felt like she would if the
16 check had been in the mail. That's what I
17 learned in law school: If you post
18 something, it's paid -- it's considered paid
19 if they don't receive it until after
20 something happens, it's still valid.

21 But I think at that point, she came
22 back later with a death certificate. And
23 you're going to show me the letter so I will

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1 know what I did next. I think that's the
2 first thing I did.

3 **Q Okay. Are there any other**
4 **discussions that you remember having with**
5 **her concerning the Globe policy prior to the**
6 **time that you sent the letter in to Globe?**

7 A No.

8 **Q Okay. Do you remember what**
9 **documents you reviewed relating to the**
10 **policy prior to the initial letter that you**
11 **sent to Globe?**

12 A I can't remember. I don't know
13 if I saw the policy or -- I think I did see
14 the policy. She had a policy, and I read
15 through it. And I don't even know what the
16 value of it was. I think it was a hundred
17 thousand dollars.

18 And I think what I did then, I called
19 the first day -- I remember like this: I
20 called out there and talked to somebody and
21 asked them what I needed to do to file a
22 claim -- help her file her claim. And she
23 told me a death certificate and some other

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1 stuff. They wanted accident reports. Why,
2 I don't know. But they wanted accident
3 reports from the state troopers, which that
4 was no problem, because the head of the
5 state troopers is a client of mine. So I
6 called him and he got me that, which
7 probably would have taken several weeks to
8 get.

9 And, usually, in a death case, it takes
10 them a while to, you know, do the
11 investigation. I think I've got that in
12 here somewhere. I think I've got a copy of
13 what they sent me in here. I've got a pile
14 of stuff. Let's see. See if I can find it;
15 I can give it to you. Let's see. I think
16 they sent me back -- no, this is something
17 Globe sent me.

18 But I sent them all this stuff, the
19 accident report, death certificate, you
20 know, that type thing.

21 **Q Okay. And you said that you**
22 **believe you had this phone call the first**
23 **day that Ms. Lurie came to see you?**

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<p style="text-align: right;">Page 21</p> <p>1 A Yes, I think so, or either the 2 second day. I think she came back the next 3 day or the next day. 4 Q And just so we're clear on the 5 record, and I think it was alluded to in 6 your previous testimony, you don't have any 7 records that would show the phone call that 8 was made to Globe the first or second day 9 that she came to see you? 10 A No. I dialed the 800-number, and 11 it's not on this -- this is the number I 12 called, the two I testified to earlier, that 13 (450)270-1410. But she had a toll-free 14 number, and I don't know what it was. 15 Q Okay. 16 A And I don't know if I've got 17 another file somewhere floating around the 18 office. I don't think I do. 19 Q Did you make any recordings of 20 any phone calls with Globe? 21 A No. 22 Q Did you ever prepare a memo to 23 the file that summarized what took place in</p>	<p style="text-align: right;">Page 23</p> <p>1 handles claims, or whoever. So I guess it 2 would be the claims department. 3 Q And, obviously, you said you 4 guess. You're not real certain who? 5 A It would have to be somebody in 6 the claims department, that's what I asked 7 for. They told me how to file a claim, what 8 she needed, you know, what documents they 9 needed, that type thing. I can remember 10 that it wasn't the first person I talked to. 11 They referred me to somebody else, whoever I 12 called. 13 Q Okay. Did you have any 14 substantive conversations with anybody else? 15 A Not at that time. 16 Q Okay. So you make the first 17 call, and was there any discussion at all 18 concerning whether or not the policy was 19 lapsed or had been reinstated in that call? 20 A No, not at that time. I assumed 21 everything was fine. The first I heard they 22 weren't going to pay was in May when they 23 sent me that letter. I think I've got it</p>
<p style="text-align: right;">Page 22</p> <p>1 a phone call with Globe? 2 A No, there wasn't a file. 3 Q Okay. 4 A I was just trying to help her out 5 to get her insurance, you know, money. Mark 6 Andrews had the file. I, basically, sent 7 the case to him. 8 Q Do you recall who at Globe you 9 talked to? 10 A No. 11 Q And I'm talking about the initial 12 conversation. 13 A I have no idea. 14 Q Do you have any records that 15 would show who you spoke with? 16 A No. 17 Q Do you remember if it was a male 18 or female? 19 A Yeah, it was a female, I remember 20 that. 21 Q Do you recall what department she 22 worked in? 23 A I think I asked for whoever</p>	<p style="text-align: right;">Page 24</p> <p>1 sitting here. May the 18th. 2 Q Did you have any conversations at 3 all during this time as to whether or not 4 the policy was in force? 5 A Did I have any concerns? 6 Q Did you have any conversations 7 with the person at Globe? 8 A No. They didn't say anything 9 about that. 10 Q All right. Let's just do it this 11 way: Tell me everything that you remember 12 being said during that phone call? 13 A Okay. Well, basically, they told 14 me what I needed to send in at that point. 15 And then I want to say it was a week or two 16 later I talked to them, after I sent the 17 stuff, and they said they were going to 18 process the claim and "send you a check." 19 You know, I told them, basically, I was 20 not her lawyer as far as trying to get any 21 money. They didn't have to put my name on 22 the check. They could just make it out to 23 her as the widow or the administrator or</p>

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<p style="text-align: right;">Page 25</p> <p>1 whatever she -- I don't know what she did. 2 Mark handled that. I didn't handle that. 3 Q Okay. Anything else that you 4 remember discussing on that first call? Did 5 you even identify who you were calling on 6 behalf of, what the policy number was? 7 A Oh, yeah. Yeah. Yeah. 8 Q Okay. But you didn't have any 9 conversations concerning whether or not the 10 policy was in force? 11 A Not that first call. 12 Q Okay. You didn't have any 13 conversations concerning whether or not it 14 had been reinstated? 15 A Not the first time. Maybe later. 16 Q And you didn't have any 17 conversations about premium history or 18 premium payments or anything like that? 19 A The first time? 20 Q Right. 21 A I might have the second day or 22 the, you know, the next day. 23 Q Okay.</p>	<p style="text-align: right;">Page 27</p> <p>1 a couple days later and we called them 2 again. 3 Q Okay. 4 A And I probably called them ten 5 times after that. Every time I called them, 6 it was just like she would call here and 7 say, "Have you heard anything," or whatever, 8 and I would call them. 9 Q Okay. Have we talked about 10 everything that you remember discussing 11 during that first call? 12 A I think so. 13 Q Okay. Now, you said there's a 14 second call a couple days later. What 15 prompted that second call? 16 A What prompted the second call? 17 Q Uh-huh. 18 A I can't remember. 19 Q Do you remember who you talked 20 with? 21 A No. 22 Q Do you remember if that was a 23 male or female?</p>
<p style="text-align: right;">Page 26</p> <p>1 A Because she told me that she had 2 just mailed the check. So I think I did 3 not, but not the initial call. But I mean, 4 like, I think I called maybe that Wednesday 5 or something and that came up. 6 Q Okay. 7 A And, you know, I talked to 8 whoever I talked to up there. I said, 9 "Look, it's 30-something dollars, and she 10 mailed it last week, or the week before the 11 fellow got killed." And they said, "As long 12 as we get it by a certain time" -- you know, 13 but I always assumed if you mailed the 14 check, that's the date. But I think they 15 said if they got it by a certain time. 16 Later on, Ms. Lurie said, "Well, you 17 know the check went through," so we didn't 18 have any problem. I didn't think we had a 19 problem until I got this letter of May the 20 whatever. 21 Q Okay. So that first call, all 22 you discussed was how to make a claim? 23 A Yeah. And she came back in like</p>	<p style="text-align: right;">Page 28</p> <p>1 A It was a female, I feel sure. 2 Q Do you remember if it was the 3 same person that you talked to -- 4 A I think at some point I talked to 5 a male later on the down the road in the 6 legal department, but it was a female, I 7 think. 8 Q Okay. Do you remember if it was 9 the same female that you talked to during 10 the first call? 11 A Yeah, it was the same person. 12 Q Okay. Tell me what you recall 13 that y'all talked about during that call? 14 A She felt like -- you know, she 15 was wondering, she might be late on the 16 payment or something. She said she had the 17 payment mailed, and they said that was no 18 problem, as long as they got it by a certain 19 date. And the thing was mailed before he 20 died. I don't know if they got it before 21 that date or not. I feel sure they did. 22 Q Okay. 23 A And I remember this, too. She</p>

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<p style="text-align: right;">Page 29</p> <p>1 said, basically, she had all her bills 2 sitting out Christmas and just, basically, 3 forgot to mail all the checks, or whatever. 4 And he was starting a new job. In fact, I 5 don't -- I think this might have been his 6 first day of work. I can't remember. He 7 was going to work on his motorcycle when he 8 got killed.</p> <p>9 Q Okay. Is there anything else 10 that you remember discussing in that second 11 call?</p> <p>12 A Other than they assured me no 13 problem, you know, the check's in the mail, 14 no problem. Basically, it's thirty 15 something dollars, they weren't really 16 worried about it. They said, "We'll pay the 17 claim, don't worry about it."</p> <p>18 Q That's what she said, "We'll pay 19 it, don't worry about"?</p> <p>20 A If they got the money. If the 21 thing was timely mailed, and, obviously, not 22 mailed after the man died.</p> <p>23 Q Right. Did y'all talk about</p>	<p style="text-align: right;">Page 31</p> <p>1 force with anyone at Globe?</p> <p>2 A There might have been one other 3 call. I can't remember. I mean it's been 4 two years ago.</p> <p>5 Q Okay. Do you remember if that 6 other call was before or after you received 7 the letter indicating that they had denied 8 the claim?</p> <p>9 A Oh, it was before. Oh, yeah.</p> <p>10 Q Okay. So you may have had two 11 calls where you discussed whether or not the 12 policy was in force?</p> <p>13 A Well, the two calls that I 14 called, I think those were to the legal 15 department, to make sure they had 16 everything. And they called me several 17 times, too, asking for stuff that I didn't 18 even feel was relevant. I mean they wanted 19 autopsy reports, they wanted police reports. 20 They wasn't -- I said, "Look, he's dead. 21 There's no -- you know, it's not a suicide. 22 It's not any, you know" -- I couldn't 23 understand why they wanted it all.</p>
<p style="text-align: right;">Page 30</p> <p>1 whether or not the policy was within the 2 grace period when the payment was made?</p> <p>3 A Yeah. I think they even waived 4 the grace period because it wasn't but \$30. 5 I mean they just said, well, as long as she 6 mails the check and we get the check by, I 7 want to say she said by next week or 8 whatever, if the thing had been mailed, then 9 you've got no problem. I said okay. And 10 that's basically it.</p> <p>11 You know, the other calls I made were 12 basically saying, you know, "My lady hadn't 13 got her money yet."</p> <p>14 "Well, it's coming. We've approved 15 it."</p> <p>16 They told me that. "We approved the 17 thing. It's already been approved. We're 18 going to get you a check." And it never 19 came, and then in May I got this letter, in 20 May.</p> <p>21 Q Okay. Back to that second call, 22 is that the only call that you ever 23 discussed whether or not the policy was in</p>	<p style="text-align: right;">Page 32</p> <p>1 And I got perturbed at them. They kept 2 calling wanting stuff. And I sent them more 3 than I probably should have even sent them. 4 And I don't know whether I got more 5 perturbed at them or perturbed because 6 Ms. Lurie would call me, you know, and, 7 "Tell me what's going?" I would say, "I 8 don't know what's going on. I mean, they 9 tell me they're going to send you a check. 10 They're going to send it to you. They're 11 not going to send it to me," you know.</p> <p>12 Q Okay.</p> <p>13 A So, that's basically it.</p> <p>14 Q And what I'm trying to find out 15 is, you know, I need to know every time that 16 you talked to somebody at Globe about the 17 coverage issue, whether or not there was 18 coverage for his death. And I know you said 19 the second call y'all discussed it. You 20 said there may have been another call where 21 it was discussed?</p> <p>22 A And they assured me that there 23 was coverage. Because, in fact, later on</p>

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<p style="text-align: right;">Page 33</p> <p>1 they said, "We've got her money and -- by 2 that time and it's covered and we've 3 approved it and the check is coming." 4 And I told my client that two or three 5 times: "The check is coming." And the only 6 time that I ever thought the check wasn't 7 coming is when they wrote me this letter, 8 this S.J. Whittaker, whoever that is. 9 Q Which is the May 18th, which I've 10 gotten and will make an exhibit later? 11 A Yeah. 12 Q Denial of claim letter? 13 A It says that the premium of \$33 14 was received on January the 16th, 2004. And 15 I don't know -- when I talked to them, I 16 want to say it might have been a day or two 17 before that, they said, "As long as we get 18 the check within the next couple of days, 19 she's covered." 20 Q Even if he's already dead? 21 A Yeah. As long as she did not pay 22 the premium after he died. That was what 23 they told me.</p>	<p style="text-align: right;">Page 35</p> <p>1 something, and I told her just wait until 2 Monday or whatever. 3 Q Did you have any discussions with 4 anyone at Globe concerning the difference in 5 paying a premium late but during the grace 6 period and paying a premium after the grace 7 period and during the lapse, did y'all have 8 any discussions in that regard? 9 A No. 10 Q Did you have -- 11 A The only time I heard about this 12 is when I got this letter. Then it said, 13 "We're unable to accept this premium," and 14 they sent me a check for \$33. They had 15 already cashed the check. They sent me a 16 check for \$33. 17 Q Which was refunding the premium? 18 A Yeah. 19 Q Did you ever make anybody at 20 Globe aware that the check was mailed beyond 21 the 31-day grace period? 22 A The only thing I heard about that 23 was this.</p>
<p style="text-align: right;">Page 34</p> <p>1 Q And did y'all discuss whether or 2 not the premium was considered paid upon 3 mailing or report of receipt? 4 A Yes. And they told me -- and I 5 told them, I said, "It's my understanding, 6 if you mail the check, if it gets lost in 7 the mail or whatever, it's considered -- and 8 you get it like late, it's considered paid." 9 And -- but the person that I was talking to 10 was not a lawyer, but they agreed with me, 11 and they said they felt like that was -- 12 Q Was that that second call? 13 A Yeah. And that was like -- let's 14 see, this says that they got the check on 15 January 16th. He died on -- 16 Q The sixth. 17 A The sixth. I think he died on a 18 Monday, maybe a Tuesday, I can't remember. 19 Let me think. I think he died on a Monday, 20 or maybe he died on a Tuesday. Anyway, I 21 think she came the next Monday is when she 22 came, and I told her not to. She wanted to 23 come in like the day after the funeral or</p>	<p style="text-align: right;">Page 36</p> <p>1 Q Okay. The only time you ever 2 heard about the payment being made beyond 3 the grace period was the 18th letter? 4 A Well, they told me if the payment 5 was made before he died, they would honor -- 6 she would get her check. They said it was 7 late, it's \$33, they give them extra, you 8 know, time or whatever if they forget to 9 mail the check, they're not going to cancel 10 their policy. That's basically what they 11 told me. 12 Q Okay. But y'all didn't have any 13 discussions as to whether or not it was 14 late, within the grace period, or late, 15 beyond the grace period? 16 A No. I wasn't aware of that until 17 I got this letter and the check for \$33 they 18 sent to me. 19 Q Okay. Which is the May 18th 20 letter. I've got it marked. I will just 21 show it to you and we'll go on and put it in 22 the record. 23 A I'm sure that's the same one I'm</p>

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<p style="text-align: right;">Page 37</p> <p>1 looking at. 2 (Whereupon, Defendant's 3 Exhibit Number 8 was marked and 4 attached to the deposition.) 5 BY MR. POUNDSTONE 6 Q I believe what I'm handing you 7 marked as Defendant's Exhibit 8 is the 8 May 18th letter, along with the check 9 attached, is that correct? 10 A Yeah. With a little note that 11 says, "If we can help you in any other way, 12 please tell us." 13 Q Okay. Now, I know this has been 14 a while and your memory may not be rock 15 solid on this, but I do want to talk about 16 any additional conversations beyond that 17 second call where you discussed whether or 18 not the policy was in force. And I need to 19 know first, do you specifically remember if 20 that another conversation took place? 21 A Every conversation I ever had 22 with them was, after that, "We got the 23 premium, you've sent us all the documents."</p>	<p style="text-align: right;">Page 39</p> <p>1 Q Did you ever discuss with anybody 2 at Globe how and under what circumstances a 3 policy could be reinstated? 4 A No. They never told me it was 5 cancelled until this. 6 Q Is there anything that you talked 7 about with the Globe representative in that 8 second phone call that we haven't talked 9 about today? 10 A Not that I can think of. 11 Q Okay. And is there anything in 12 any of the phone calls concerning payment of 13 the premium, reinstatement of the policy, or 14 whether or not the policy was in force that 15 we haven't talked about so far today? 16 A No. 17 Q Did you have any discussions with 18 Ms. Lurie as to when she may have put the 19 premium -- overdue premium check in the 20 mail? 21 A Yes. 22 Q Okay. 23 A I remember that.</p>
<p style="text-align: right;">Page 38</p> <p>1 First, they asked me for more documents. I 2 sent them piles of stuff, you know. And 3 once I sent them, they said, "We've got 4 everything we need. We've approved your 5 claim, the check is coming. Tell your lady 6 that the check is coming." And I instructed 7 them to send it to her and not me. 8 Q Okay. How many of these type 9 phone calls do you recall taking place? 10 A Probably eight or ten, at least, 11 or maybe more. 12 Q Do you remember the names of 13 anyone you talked to? 14 A No. 15 Q Do you have any records that 16 would show the names of any of the people 17 that you talked to? 18 A No. 19 Q Did you record any of the calls 20 -- 21 A I don't record any calls of 22 anybody that I -- you know, that I talk to. 23 I think it was against the law to do that.</p>	<p style="text-align: right;">Page 40</p> <p>1 Q Tell me what discussions you had 2 in that record regard? 3 A She said she put the checks in 4 the mail, I want to say maybe Friday or 5 Saturday before he got killed, sometime over 6 the weekend maybe, but that she took them to 7 the post office and they were mailed. So it 8 wasn't like, you know, the day he got 9 killed. It was several days before he got 10 killed. 11 Q Did it strike you as a bit 12 unusual that a Globe employee would tell you 13 that the policy was in force when they 14 didn't receive the premium prior to 15 Mr. Lurie's death? 16 MR. SANSPREE: Object to the 17 form. 18 A Well, they said if it was in the 19 mail it was, you know. I explained to them 20 what happened. The lady mailed the check 21 and then the guy gets killed like the next 22 week. And she says, "As long as you send in 23 these documents, we will send it to whoever</p>

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<p style="text-align: right;">Page 41</p> <p>1 and see if they approve it." 2 The next thing I hear, they approved 3 it, until May the whatever, and then they 4 say they didn't approve it. So they told me 5 one thing and then came back two or three 6 months later and sent me this letter. 7 Q So, just so we're clear, because 8 your testimony seems a little bit different 9 just then than it did previously, did the 10 Globe person that you talked to say, "Well, 11 just send the stuff in and we'll send it off 12 and see if they approve it," or did they 13 say, "The policy is in force because, you 14 know, the premium was" -- 15 A Well, they always told me -- I 16 had never heard that the policy wasn't in 17 force, they weren't going to force the 18 policy. But they told me they had to send 19 it to somebody to look at all the stuff I 20 sent them and all that to get final 21 approval. And I sent them everything. I 22 mean it was a pile of stuff. 23 Q Did you ever know that Ms. Lurie</p>	<p style="text-align: right;">Page 43</p> <p>1 Q Do you remember any discussions 2 you had with Ms. Lurie concerning this 3 letter? 4 A I'm sure I had several. 5 Q Do you remember the substance of 6 any of those conversations? 7 A No. I think this just -- this 8 just confirms that they wanted the money by 9 the 17th, and I told them the fellow had 10 died. But they said as long as it was sent 11 to them before he died, then they -- you 12 know, it was fine. 13 Q Let me ask you this, and hold 14 onto that for just a second. 15 A All right. 16 Q Do you recognize the handwriting 17 on that document? 18 A No, huh-uh. I assume Ms. Lurie 19 wrote that down probably. I don't know. 20 It's not mine. 21 Q Will you read the -- will you 22 read the first sentence of paragraph 3 for 23 me?</p>
<p style="text-align: right;">Page 42</p> <p>1 put the premium payment in the mail after 2 the grace period had already expired? 3 A I don't know when she did it. I 4 don't know when the grace period was. 5 (Whereupon, Defendant's 6 Exhibit Number was marked 3 and 7 attached to the deposition.) 8 BY MR. POUNDSTONE 9 Q Okay. You were never aware of 10 those facts. I'll show you what I marked as 11 Exhibit 3. Have you seen that document 12 before? 13 A I have. In fact, I don't know 14 how I saw it, but I have seen this. 15 Q Do you know if that's something 16 that Ms. Lurie brought to you around the 17 time she came to see you the first or second 18 time? 19 A It might have been, but I 20 remember that. I think that was confirmed 21 when I called out there, and they called me 22 and said they received the money, or 23 whatever. So it was -- somebody called me.</p>	<p style="text-align: right;">Page 44</p> <p>1 A "If you had not a chance to do 2 so, please send in your payment along with 3 attached notice and the benefits of your 4 policy will be reinstated, provided the 5 insured is still in good health. We must 6 receive your payment by January 17th, 2004." 7 Q Would you agree with me that 8 Chris Lurie was not in good health when 9 Globe received the premium payment? 10 A He was deceased. 11 Q And that's not good health, is 12 it? 13 A No. 14 (Whereupon, Defendant's 15 Exhibit Number 4 was marked and 16 attached to the deposition.) 17 BY MR. POUNDSTONE 18 Q I'm going to show you what I 19 marked as Exhibit 4. Have you seen that 20 document before? 21 A That's my signature. I wrote it, 22 yeah. 23 Q Okay. And is that -- earlier we</p>

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<p style="text-align: right;">Page 45</p> <p>1 talked about the first written letter that 2 you sent to Globe concerning the claim. Is 3 that the letter that you were talking about? 4 A I'm sure -- I don't know if I 5 sent more than that letter or not, but that 6 is a letter I sent concerning some of the 7 stuff they wanted, accident report, death 8 certificate. And then they called back 9 wanting more things. I mean, that's, you 10 know -- 11 Q Do you remember whether or not 12 this letter was sent after the first call 13 that you had with someone at Globe? 14 A Oh, yeah. 15 Q Do you remember whether or not it 16 was sent before or after the second call you 17 had with someone at Globe? 18 A It would be after. This letter 19 would be after. 20 Q Okay. And there's no mention of 21 the premium issue in this letter. Is there 22 any particular reason that you didn't 23 mention that?</p>	<p style="text-align: right;">Page 47</p> <p>1 sent them that. A police report, I had 2 already sent them that. Obituary, I didn't 3 know why they wanted that. We sent it to 4 them. A newspaper article, we sent them 5 that. 6 And then this was a problem that I had: 7 Names and addresses of all the doctors who 8 had treated him in the past five years. And 9 this set me off. And I called them, and I 10 said this was ridiculous. And they said, 11 "Well, this is part of our policy, we've got 12 to have this." 13 I said, "The man got killed in the car 14 wreck." 15 "Well, he might have been diabetic; or 16 he might have had blood pressure problems; 17 or he might have had a heart attack and 18 caused this accident." 19 I mean, I got livid. And I can still 20 remember this. I said, "Look, the guy got 21 killed in a head-on collision where the 22 other driver came over into his side of the 23 road. He hit the guy head on with the</p>
<p style="text-align: right;">Page 46</p> <p>1 A It wasn't an issue. She paid the 2 premium. 3 Q Okay. 4 A And I knew at this point she had 5 paid the premium. They had gotten money. 6 In fact, somebody called me and said they 7 got it by whatever date. 8 (Whereupon, Defendant's 9 Exhibit Number 5 was marked and 10 attached to the deposition.) 11 BY MR. POUNDSTONE 12 Q I'm going to show you what I 13 marked as Exhibit 5. That letter is 14 addressed to Ms. Lurie, so you may or may 15 not have seen it. So let me ask you, have 16 you seen that letter before? 17 A Oh, yeah. Yeah. She brought 18 this in, and this is what I'm, you know, 19 talking about the other things she wanted, 20 statement by the beneficiary, attending 21 physician statement, which I didn't know why 22 in the world they wanted that. That was -- 23 you know, a death certificate, I had already</p>	<p style="text-align: right;">Page 48</p> <p>1 motorcycle. He went through the windshield 2 of that van and killed the driver of the 3 other car. Both of them were killed." 4 But, you know, I just couldn't 5 understand this. And I remember seeing 6 this, and that set off about two or three 7 phone calls to them about that. So, yes, I 8 saw that. 9 Q And just to be clear, I mean, do 10 you -- I mean, you don't have any knowledge 11 of whether or not, you know, conducting such 12 types of investigations are standard or not 13 in the life insurance industry? 14 A I would say it's very unusual to 15 say the least when you've got a case that's 16 clearly -- you know, why in the world are 17 they looking at stuff like this? I mean, 18 that -- red flags went off in my head right 19 there that there was trouble with paying the 20 claim when they're wanting all this stuff. 21 I couldn't figure out -- I said something is 22 going on. 23 Q Okay. But you've never worked in</p>

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<p style="text-align: right;">Page 49</p> <p>1 the insurance industry, have you?</p> <p>2 A No. I've defended insurance</p> <p>3 companies for a long time though.</p> <p>4 Q And when you received this</p> <p>5 February 2004 letter, was it your</p> <p>6 understanding, at that time, that Globe</p> <p>7 needed additional information before it</p> <p>8 could begin the investigation process?</p> <p>9 A That's what they said, they had</p> <p>10 to have all that before they would write a</p> <p>11 check is what they told me. And I think at</p> <p>12 that stage, I even talked to one of their</p> <p>13 lawyers or somebody in the legal department.</p> <p>14 (Whereupon, Defendant's</p> <p>15 Exhibit Number 6 was marked and</p> <p>16 attached to the deposition.)</p> <p>17 BY MR. POUNDSTONE</p> <p>18 Q Okay. And I'm going to show you</p> <p>19 what I marked as Exhibit 6. There we go.</p> <p>20 Okay. Have you seen that letter before?</p> <p>21 A Well, I know I seen it. I mean I</p> <p>22 can look at my letterhead and signature.</p> <p>23 Q Okay. And that is your signature</p>	<p style="text-align: right;">Page 51</p> <p>1 BY MR. POUNDSTONE</p> <p>2 Q I'm going to show you what I</p> <p>3 marked as Exhibit 7. Do you recall seeing</p> <p>4 that letter before?</p> <p>5 A It was sent to me. I saw it if</p> <p>6 it was sent to me.</p> <p>7 Q And it, obviously, is addressed</p> <p>8 to you, correct?</p> <p>9 A Right. I'm sure I got it.</p> <p>10 Q Okay.</p> <p>11 A That's my address.</p> <p>12 Q And this letter is dated</p> <p>13 April 26th, 2004, correct?</p> <p>14 A Uh-huh.</p> <p>15 Q Is that your recollection as to</p> <p>16 the approximate time period when Globe had</p> <p>17 received all the information that it needed</p> <p>18 to begin its investigation?</p> <p>19 A That would have been a lot longer</p> <p>20 after I sent it to them if I sent it to them</p> <p>21 on March the 2nd. That's like six weeks</p> <p>22 later.</p> <p>23 Q Let me ask you this: Do you</p>
<p style="text-align: right;">Page 50</p> <p>1 there?</p> <p>2 A Yeah.</p> <p>3 Q Tell me what that letter is?</p> <p>4 A Evidently, I sent them a bunch of</p> <p>5 stuff and that's what, you know --</p> <p>6 Q Okay.</p> <p>7 A The stuff in there that was</p> <p>8 requested that I hadn't sent them.</p> <p>9 Q Okay. And that was sent in</p> <p>10 response to the February 3, letter that we</p> <p>11 just looked at and marked as Exhibit 5?</p> <p>12 A Yeah.</p> <p>13 Q Okay. And this letter is dated</p> <p>14 March 2nd, correct?</p> <p>15 A And I don't know who L.S. Lawson</p> <p>16 is, but that's whoever I talked to.</p> <p>17 Q Okay. And this letter is dated</p> <p>18 March 2nd, correct?</p> <p>19 A Yeah.</p> <p>20 (Whereupon, Defendant's</p> <p>21 Exhibit Number 7 was marked and</p> <p>22 attached to the deposition.)</p> <p>23</p>	<p style="text-align: right;">Page 52</p> <p>1 recall whether or not there was additional</p> <p>2 information that Globe had to obtain a third</p> <p>3 party to get because it was not provided by</p> <p>4 either you or Ms. Lurie?</p> <p>5 A I sent them everything they asked</p> <p>6 me to send them, I think.</p> <p>7 Q Let's go back briefly to the</p> <p>8 May 18th letter. What did you do after you</p> <p>9 received this letter?</p> <p>10 A I don't think you want to hear</p> <p>11 what I did, because it wasn't nice. I hit</p> <p>12 the damn roof when I saw that letter. I was</p> <p>13 incensed, and I'm still incensed. And I</p> <p>14 picked up the telephone, and I'm sure -- I</p> <p>15 hadn't looked at the date. Let me go back</p> <p>16 to those phone records, see what these dates</p> <p>17 were. I think these were before -- that's</p> <p>18 March the 10th. I'm gone have to look at my</p> <p>19 phone records. I don't know if I called the</p> <p>20 toll-free number or not, but I remember</p> <p>21 calling them.</p> <p>22 Q Okay.</p> <p>23 A And I told them there would be a</p>

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<p style="text-align: right;">Page 53</p> <p>1 lawsuit coming; I didn't handle that type 2 lawsuit but I would have somebody that did. 3 Q Okay. Do you remember -- let me 4 ask you this: Did you have just one 5 conversation with Globe after you received 6 the May 18th letter? 7 A I think I probably had two or 8 three. In fact, I think one of their 9 lawyers called me. 10 Q Do you remember what lawyer 11 called you? 12 A No. It was one of their 13 corporate people. 14 Q Do you remember if it was a male 15 or female? 16 A I'm sure it was a male. 17 Q Okay. And how about the other 18 folks you talked to, do you remember who 19 they were? 20 A I can't remember. 21 Q Okay. 22 A I can remember getting that 23 letter though, I can remember that.</p>	<p style="text-align: right;">Page 55</p> <p>1 Q Which is Lurie -- 2 A "If we can help you any other 3 way, please tell us." Yeah. 4 Q Did any of the Globe 5 representatives that you talked to explain 6 why they made the decision to deny the 7 claim? 8 A They said it was a corporate 9 decision not to allow it, because they say 10 that the policy had lapsed over a \$15 11 premium or something. And I explained to 12 them that the money had been mailed and 13 that -- before he died, the money had been 14 mailed, they got it before the lapse. I 15 think it was the day before or a couple days 16 before, but they got their money and they 17 cashed the check. 18 And I said, "You cashed the check, 19 because I have a copy of the cashed check." 20 And they said, "Well, we've sent you a 21 refund for that check." 22 I said, "That's real good. I'm going 23 to refer her to an attorney that will file</p>
<p style="text-align: right;">Page 54</p> <p>1 Q Do you remember anything specific 2 that was discussed in relation to the 3 policy, itself, and the coverage issue 4 during any of those calls? 5 A Yeah. I told them that I had 6 been assured the money was coming, I had 7 been assured that the claim was fine, they 8 just needed this information. And, you 9 know, a lot of this stuff, I didn't 10 understand why they needed it but I provided 11 it. I spent a lot of time getting this 12 information. I wasn't getting paid to do 13 that. You know, I did it as favor to her. 14 The whole, you know -- and I just -- it just 15 -- I was incensed when I got this letter. 16 This is what really incensed me. I don't 17 have a copy of the check, but they put 18 something on there, you know, "If you need 19 anything, we will be glad to help you," or 20 some little -- 21 Q And that's page 2 of the 22 exhibit -- 23 A Yeah.</p>	<p style="text-align: right;">Page 56</p> <p>1 suit for bad faith against your insurance 2 company. I don't handle that type case. 3 I've represented insurance companies. I've 4 been practicing law for 25 years, and I've 5 basically been a defense lawyer most of my 6 time. And, you know, that's where it's 7 going." 8 And they said, "Well, you go get you 9 somebody real smart." 10 I said, "That's fine." 11 Q Now, when you said that they 12 received a check before it had lapsed -- 13 A Before that date on there. 14 Q Before the date on the -- 15 A That January 17th date. They got 16 the money and put it in the bank before 17 then. 18 Q What you're saying, that they got 19 it before the date on January 17th? 20 A Right. 21 Q That's listed on Exhibit 3, 22 correct? 23 A That's right. That's right.</p>

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<p style="text-align: right;">Page 57</p> <p>1 Q But you recognize that the policy 2 was already lapsed before they received the 3 premium, because the grace period expired? 4 A Well, according to this, I mean 5 it tells me, "The benefits of your policy 6 will be reinstated provided the insured is 7 still in good health. We must receive your 8 payment by January 17th." They got their 9 payment. It was mailed before he died. It 10 wasn't mailed after he died. They got the 11 check after he died, but it was mailed 12 before he died. 13 Q Okay. But wouldn't you recognize 14 that the term reinstatement means that the 15 policy was lapsed, that there no longer was 16 coverage? 17 A Well, they're telling him he's 18 got coverage. If he had been alive he'd had 19 coverage. 20 Q Well, you don't read that as 21 offer to reinstate the policy, as opposed to 22 an opportunity -- 23 A It's like a late fee or</p>	<p style="text-align: right;">Page 59</p> <p>1 you ever saw that policy? 2 A Yeah, I probably did. 3 Q Okay. And, actually, if you look 4 at the top of the document, it appears to 5 have a faxed tag line that shows that it was 6 either faxed to or from your office at some 7 point. And I don't believe the date is 8 clear enough to be able to read. Is that 9 correct? 10 A Yeah. Right. I must have faxed 11 this -- I don't know if I faxed it to -- I 12 faxed it 10/02. I can't see when it was. 13 Q Could be either January 21st or 14 June 21st. 15 A I don't know. 16 Q Okay. Do you recall whether or 17 not you reviewed the policy before you had 18 those first and second phone conversations 19 with someone at Globe? 20 A I can't remember. 21 Q Do you recognize whose 22 handwriting that is on this policy? 23 A No. It's not mine. I'm sure I</p>
<p style="text-align: right;">Page 58</p> <p>1 something. I mean, they're talking about 2 \$15 or \$20. I mean, you know, get 3 realistic. If this was a thousand dollar 4 premium or something, I can see it being a 5 big deal. 6 (Whereupon, Defendant's 7 Exhibit Number 9 was marked and 8 attached to the deposition.) 9 BY MR. POUNDSTONE 10 Q I'm going to show you what I 11 marked as Exhibit 9, and I will give you the 12 opportunity to look over that. Just let me 13 know when you're ready. 14 A Go ahead. 15 Q Okay. Have you seen that 16 document before? 17 A I'm sure I have. 18 Q Okay. 19 A I don't know. I don't know if 20 I've seen this one or not. 21 Q And I will represent to you that 22 is the Globe policy that Ms. Lurie has 23 produced in this lawsuit. Do you recall if</p>	<p style="text-align: right;">Page 60</p> <p>1 had a copy of this when I mailed them the 2 initial stuff, the death certificate and all 3 that. It's got a thing in here where you've 4 got to send them a notice of death, or 5 whatever, and I sent that letter on 6 January 26th. 7 Q Would you turn to the page of 8 that document that is Bates stamped Lurie 9 0013. 10 A I'm looking at it. 11 Q Okay. Do you see the bottom, 12 last paragraph on that page, where it says, 13 "Termination of coverage"? 14 A Yeah. 15 Q Would you read that for me? 16 A "Coverage of any insurance will 17 terminate at the end of grace period 18 following and premium due date for which 19 insured's fee for required premium is not 20 paid. A premium paid for any period after 21 the date coverage terminates will 22 constitute -- continue the insurer's 23 coverage in force and will be returned</p>

15 (Pages 57 to 60)

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<p style="text-align: right;">Page 61</p> <p>1 unless accepted by us under the 2 reinstatement provision of the certificate." 3 Q Now, sitting here today reading 4 that provision, would you acknowledge that 5 pursuant to the policy, any premiums 6 received after the grace period would only 7 continue the policy if the reinstatement 8 provisions were met? 9 A There's several ways to get it 10 back in force if they say it wasn't in 11 force. 12 Q But you recognize that that 13 policy language requires in order to keep 14 the policy from terminating, that the 15 reinstatement provisions in the policy be 16 met? 17 A You have to pay up what you owe I 18 guess is what they're saying. 19 Q Turn to the next page. 20 A Which one? 21 Q Lurie 0014. 22 A Okay. 23 Q And do see there's definition,</p>	<p style="text-align: right;">Page 63</p> <p>1 A It had. 2 Q And it also run before Ms. Lurie 3 said she placed a check in the mail on 4 January 4th, correct? 5 A That's right. It had about a 6 week, I think. 7 Q Now, if you drop down to the next 8 line and read the provisions for 9 reinstatement, the next paragraph. 10 A "Coverage may be reinstated 11 anytime within one year after default in 12 premium payment if the insured provides 13 evidence of insurability satisfactory to us 14 and all overdue premiums are paid." 15 Q Okay. Now, pursuant to that 16 language, you would agree that in order to 17 reinstate the policy, two things were 18 required, correct, one of those? 19 A That's what this says, yes. 20 Q One of those being evidence of 21 insurability satisfactory to Globe? 22 A Yes. 23 Q And, two, that all overdue</p>
<p style="text-align: right;">Page 62</p> <p>1 the fourth paragraph down from the top, of 2 grace period? 3 A Yeah. 4 Q Read that definition for me. 5 A "Grace period. A grade period of 6 31 days will be allowed each insured for the 7 payment of each premium after the first 8 during which period his or her insurance 9 shall continue in force." 10 Q Okay. Now, do you recognize or 11 you would agree that pursuant to that 12 language, the grace period on the policy 13 extends for a period of 31 days past the 14 date that the premium is due, correct? 15 A That's right. 16 Q Okay. And you don't dispute in 17 this case that the grace period had lapsed 18 before Globe received the premium on 19 January 16th, do you? 20 A No, it hadn't. 21 Q Okay. And you don't dispute the 22 fact the grace period had run before 23 Mr. Lurie's death on January 6th, do you?</p>	<p style="text-align: right;">Page 64</p> <p>1 premiums are paid, correct? 2 A Yeah. 3 Q Now, if you go to the first 4 paragraph under that same page -- 5 A Is that 14? 6 Q Yes, Lurie 14. 7 A All right. 8 Q And read the provisions for 9 payments. It's the first paragraph. 10 A "Each premium a payable in 11 advance at our administrative office." 12 Q Okay. Now, sitting here, you 13 acknowledge that pursuant to the policy, 14 payments are made at Globe's administrative 15 office, correct? 16 A I assume so. 17 Q And it doesn't say payments are 18 made when they're put in the mail, does it? 19 A No. 20 Q If you will, go back to Lurie 21 0013. 22 A Okay. 23 Q And drop down to the definition</p>

16 (Pages 61 to 64)

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<p style="text-align: right;">Page 65</p> <p>1 for evidence of insurability, and it's one, 2 two, three, four, five, six, seven, the 3 seventh definition down from the top. 4 A Okay. "Satisfaction proof is 5 determined by us that a person is acceptable 6 for insurance." 7 Q Okay. Now, surely you'd 8 acknowledge that a deceased man is not 9 acceptable for life insurance, wouldn't you? 10 A That's a stupid question. Of 11 course not. 12 Q If you would, for me, just one 13 more provision of the policy I want you to 14 take a look at. If you would, go to Lurie 15 0014. 16 A Okay. 17 Q Under the general provisions, and 18 if you drop down, the seventh paragraph, 19 Entire Contract Changes, will you read that 20 provision for me? 21 A "The certificate with group 22 policy enrollment and attached papers, if 23 any, is the entire contract between you and</p>	<p style="text-align: right;">Page 67</p> <p>1 (Whereupon, Defendant's 2 Exhibit Number 10 was marked and 3 attached to the deposition.) 4 BY MR. POUNDSTONE 5 Q Okay. I'll show you what I'm 6 going to mark as Exhibit 10 -- 7 A Okay. 8 Q -- and ask if you've seen that 9 document before? 10 A Yeah. 11 Q Okay. Is that -- well, tell me 12 what that document is. 13 A That's an affidavit I executed on 14 November the 2nd of this year. 15 Q Okay. Is that your 16 understanding, that this was executed in 17 connection with Ms. Lurie's brief and 18 opposition to our summary judgment motion? 19 A Actually, I don't know why -- 20 what the purpose of it was. 21 Q It is your affidavit? 22 A But it's my affidavit and 23 everything in it is true.</p>
<p style="text-align: right;">Page 66</p> <p>1 us, no changes in this certificate will be 2 effective until approved by us. This 3 approval must be noted or attached to the 4 certificate." 5 Q In the entire you were handling 6 this matter for Ms. Lurie, you never 7 received any written modification of this 8 insurance policy, did you? 9 A All of it was oral. 10 Q So -- 11 A The only thing written I received 12 was this letter from them. 13 Q So your contentions, at least in 14 this case, is that Globe somehow orally 15 modified the terms of this policy, is that 16 correct? 17 A I'm not making any contentions. 18 MR. SANSPREE: He's just a 19 witness. 20 A I'm just a witness, and I'm 21 telling what happened. That's up for a 22 judge to determine whether or not this 23 contract is enforceable or not.</p>	<p style="text-align: right;">Page 68</p> <p>1 Q Okay. That was my question. 2 Everything in that affidavit is accurate, 3 correct? 4 A Yeah. 5 Q Okay. Is there anything in that 6 affidavit that you think needs further 7 explaining? 8 A It says it pretty good. The only 9 thing that's not in the affidavit concerning 10 this is the extra things they asked me to 11 provide you -- 12 Q Which we talked about. The 13 additional information -- 14 A Yeah, we talked about that. 15 Q -- requested in that February 16 letter? 17 A Doctors' statements, medical 18 records, medical history, that type thing. 19 Q Okay. There's two exhibits 20 referenced in that affidavit that were not 21 attached when the brief was filed, and just 22 so -- and I think we've already got them -- 23 A They're in.</p>

17 (Pages 65 to 68)

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<p style="text-align: right;">Page 69</p> <p>1 Q -- into evidence here. Okay.</p> <p>2 let's just reference the Exhibit Numbers</p> <p>3 just so that we get that on the record. The</p> <p>4 January 26th letter that is referenced in</p> <p>5 your affidavit as Exhibit A?</p> <p>6 A Right, I've seen it.</p> <p>7 Q Is what we marked as Exhibit 4,</p> <p>8 the letter that's referenced in that</p> <p>9 affidavit?</p> <p>10 A Right. I assume that's the same</p> <p>11 letter.</p> <p>12 Q And I'm showing you what we</p> <p>13 earlier marked as Exhibit 8.</p> <p>14 A Right.</p> <p>15 Q Is that the letter that is</p> <p>16 referenced in your affidavit and indicated</p> <p>17 that it will be attached as Exhibit B?</p> <p>18 A Right.</p> <p>19 Q Okay. I see that you've got some</p> <p>20 files here with you today.</p> <p>21 A Yeah.</p> <p>22 Q Do you mind if I glance through</p> <p>23 there to see if there's any documents that I</p>	<p style="text-align: right;">Page 71</p> <p>1 that is the letter that you sent me in</p> <p>2 response to the subpoena that we issued,</p> <p>3 correct?</p> <p>4 A Yeah.</p> <p>5 Q Okay.</p> <p>6 A Yeah. Yeah.</p> <p>7 Q That is -- well, do you want --</p> <p>8 is that something -- let me ask you, I may</p> <p>9 mark it, I may not. Is that something that</p> <p>10 you've done since this lawsuit was filed or</p> <p>11 is that something that you made back in</p> <p>12 January of 2004?</p> <p>13 A No, this is recent.</p> <p>14 Q Okay.</p> <p>15 A I just wrote down just to remind</p> <p>16 myself.</p> <p>17 Q Okay. I don't have any other</p> <p>18 questions.</p> <p>19 MR. SANSPREE: I don't have</p> <p>20 anything.</p> <p>21</p> <p>22</p> <p>23</p>
<p style="text-align: right;">Page 70</p> <p>1 don't have.</p> <p>2 A Be my guest.</p> <p>3 Q Okay.</p> <p>4 A You know, that's -- I don't know</p> <p>5 if there's -- most of this stuff is</p> <p>6 connected with this lawsuit. I've just been</p> <p>7 throwing it in a file.</p> <p>8 MR. POUNDSTONE: Chris, do you</p> <p>9 want to look through it first to</p> <p>10 see if anything --</p> <p>11 MR. SANSPREE: I know we gave you</p> <p>12 a letter one time.</p> <p>13 MR. POUNDSTONE: Why don't we go</p> <p>14 off the record and let Chris look</p> <p>15 at it.</p> <p>16 (Off-the-record.)</p> <p>17 (Whereupon, Defendant's</p> <p>18 Exhibit Number 12B was marked and</p> <p>19 attached to the deposition.)</p> <p>20 BY MR. POUNDSTONE</p> <p>21 Q Show you what I'm going to mark</p> <p>22 as Exhibit 12B, which is a letter from you</p> <p>23 to me. And just to put it in the record,</p>	<p style="text-align: right;">Page 72</p> <p>1 CERTIFICATE</p> <p>2 STATE OF ALABAMA</p> <p>3 COUNTY OF BUTLER</p> <p>4 I hereby certify that the above and</p> <p>5 foregoing deposition was taken down by me in</p> <p>6 stenotype and the questions and answers</p> <p>7 thereto were transcribed by means of</p> <p>8 computer-aided transcription, and that the</p> <p>9 foregoing represents a true and correct</p> <p>10 transcript of the testimony given by said</p> <p>11 witness upon said hearing.</p> <p>12 I further certify that I am neither of</p> <p>13 counsel, nor of kin to the parties to the</p> <p>14 action, nor am I in anywise interested in</p> <p>15 the result of said cause.</p> <p>16</p> <p>17</p> <p>18 RENNY MCNAUGHTON</p> <p>19 Notary Public</p> <p>20 My Commission Ends 11/06/07</p> <p>21</p> <p>22</p> <p>23</p>

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